

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Implementation of the Subscriber Carrier)	
Selection Changes Provisions of the)	CC Docket No. 94-129
Telecommunications Act of 1996)	
)	
Policies and Rules Concerning)	
Unauthorized Changes of Consumers)	
Long Distance Carriers)	

**WORLDCOM OPPOSITION TO THE PETITION
FOR RECONSIDERATION OF THE RURAL ILECS**

WorldCom, Inc. (d/b/a and hereafter “MCI”) respectfully submits these comments pursuant to the Federal Communications Commission’s (Commission) *Public Notice* released on July 7, 2003 (Report No. 2616). MCI opposes the Petition for Reconsideration and Supplement to Petition for Reconsideration of the Commission’s *Third Order on Reconsideration*,¹ filed by the rural incumbent local exchange carriers (hereafter “Rural ILECs” or “Petitioners”) in the above-referenced docket on May 19, 2003 and May 30, 2003, respectively.

¹ *In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 Policies and Rules Concerning Unauthorized Changes of Consumers’ Long Distance Carriers*, Third Order on Reconsideration and Second Further Notice of Proposed Rulemaking, CC Docket No. 94-129 (rel. Mar. 17, 2003)(*Third Order on Reconsideration*).

INTRODUCTION

The Commission concluded in its *1995 Report and Order* that its verification rules should be extended to consumer initiated “inbound-calls.”² The *Second Report and Order* affirmed this requirement on inbound-calls and made the Commission’s verification rules applicable to all services and to all carriers.³ The Commission incorporated an exception to its verification rules when neither the local exchange carrier (“LEC”) nor the interexchange carrier (“IXC” or “long distance carrier”) is the submitting carrier as defined by the Commission’s rules. Thus, the verification rules are not applicable when the customer initiates or changes long distance service by contacting the LEC directly when the LEC is not the requested interexchange provider, and the requested IXC has not submitted a preferred carrier change on behalf of the customer.⁴

In its *Third Order on Reconsideration*, the Commission stated that it was necessary “...to require verification of carrier change requests that occur when a customer initiates a call to a LEC.”⁵ Multiple parties requested that the Commission confirm its intent was not to reverse its prior decision to exempt, from the verification obligations, changes in long distance providers that are initiated by a customer’s request

² *In the Matter of Policies and Rules Concerning Unauthorized Changes of Consumer’ Long Distance Carriers*, Report and Order, CC Docket No. 94-129, FCC 95-225, para. 42 (1995)(“1995 Report and Order”), stayed, Order, 11 FCC Rcd. 856 (1995)(“In-bounded Stay Order”), affirmed, *In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 Policies and Rules Concerning Unauthorized Changes of Consumers’ Long Distance Carriers*, Second Report and Order, CC Docket 94-129, FCC 98-334 (1998)(“Second Report and Order”).

³ *Second Report and Order*, para. 66[“All calls that generate the submission of a carrier change on a subscriber’s behalf, regardless of the carrier receiving it or how the request was received, must be verified.”]

⁴ *See Id.*, para. 93. The Commission also made an exception to its verification rules for the situation in which a carrier drops a subscriber from its service. *Id.*, para. 84.

⁵ *Third Order on Reconsideration*, para. 91.

to an unaffiliated LEC.⁶ MCI, for example, sought clarification from the Commission that this statement was “...only an affirmation of [the Commission’s] prior decisions that, even when the customer initiates a call to a LEC, when a LEC makes a carrier change that benefits the LEC, or the LEC’s long distance affiliate, the customer authorization for that change must be verified in accordance with the Commission’s current verification rules.”⁷ The Commission issued an order clarifying that “verification by a LEC is required only when the carrier change involves the LEC or an affiliate of the LEC.”⁸

In its petitions, the Rural ILECs request that the Commission reconsider and rescind the requirement for LECs to verify inbound carrier change requests when the customer asks to switch to the long distance affiliate of the LEC.⁹ Petitioners argue that the verification requirement at issue places an undue burden on small LECs that currently do not verify inbound carrier change requests. Petitioners further contend that the

⁶ See Ex Parte Letter of Verizon, BellSouth, SBC Telecommunications Inc., and Qwest, CC Docket No. 94-129, dated May 2, 2003 (“Joint LECs Letter”); Petition for Clarification or, in the Alternative, Reconsideration of the United States Telecom Association, CC Docket No. 94-129, p.1, dated May 19, 2003 (“USTA Petition”)[“[USTA] asks the [FCC] to confirm that a single sentence in its *Third Reconsideration Order* in this proceeding did not impose a new obligation on [LECs] to verify...orders a LEC receives from subscribers to make changes in the subscribers’ presubscribed carriers when the new carrier is neither the LEC itself nor an affiliate of the LEC.”]; Petition for Reconsideration, Sprint Corporation, CC Docket No. 94-129, dated May 19, 2003 (“Sprint Petition”); AT&T Petition for Partial Reconsideration or, in the Alternative, Request for Clarification, CC Docket No. 94-129, dated May 19, 2003 (“AT&T Petition”).

⁷ WorldCom Petition for Reconsideration and Clarification, CC Docket No. 94-129, p. 4, dated filed May 19, 2003. See also, Joint LECs Letter, p. 2 “[I]t appears the Commission merely intended to confirm that customer calls to the LEC to make a carrier change benefiting the LEC or, more specifically its long distance affiliates, must be verified pursuant to existing Commission verification rules.”]

⁸ *In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 Policies and Rules Concerning Unauthorized Changes of Consumers’ Long Distance Carriers*, Order, CC Docket No. 94-129, FCC 03-116, para. 5 (rel. May 23, 2003).

⁹ See Petition, p. 1 and Supplement, p. 3.

requirement could create a competitive disadvantage for the IXC affiliates of small LECs and that there is no justification for the rule.¹⁰ Additionally, Petitioners claim that because the Commission did not give notice, amend its rules or provide justification for the rule, the verification requirement violates the Administrative Procedures Act (“APA”) and is arbitrary and capricious.

I. The Commission’s Rules Prior to the *Third Order on Reconsideration* Already Required Verification on PIC Changes by a LEC to its Affiliate

The Rural ILECs filed a supplemental pleading to raise the claims set forth by The United States Telecom Association (“USTA”) and Sprint that, before a verification requirement can be effective, there must first be a notice and comment period and a rule change. First, the Commission’s rules and Orders prior to the *Third Order on Reconsideration* already required a LEC to verify inbound carrier change requests when the customer asks to switch its presubscribed service provider to the LEC or its affiliate. Therefore the Commission did not need to amend its rules or provide prior notification and seek comment for purposes of affirming this requirement in its *Third Order on Reconsideration*. Second, it is noteworthy that only the Rural ILECs are disputing the prior existence of this obligation. Other parties have asserted compliance with this verification obligation.¹¹ The petitions filed by USTA and Sprint concerned the application of the verification requirements to carrier changes initiated by the LEC when the switch is neither to the LEC nor to its affiliate. They did not claim that the rule did not apply when changes are initiated with the LEC, for switches to the LEC or the LEC’s

¹⁰ Petition p. 3.

¹¹ See AT&T Petition, p. 4; Sprint Petition, p. 1-2; Joint LECs Letter, p. 2.

affiliate. Further, once the Commission issued clarification on this point, both parties, USTA and Sprint, withdrew their petitions.¹²

In its *Second Report and Order*, the Commission modified its rules to define “submitting carrier” as “any telecommunications carrier that requests on the behalf of a subscriber that the subscriber’s telecommunications carrier be changed, *and seeks to provide retail services to the end user subscriber.*”¹³ The Commission has made it clear that a carrier responding to a customer’s request may be acting both as an executing carrier and a submitting carrier. Thus, if the LEC will be providing the retail service to the subscriber the LEC “will both ‘submit’ the change, albeit to itself, and also execute that change.”¹⁴ The application of this requirement for purpose of switches to the LEC’s long distance service, as well as local, was clarified in the Commission’s *Third Report and Order*, released in August 2000.¹⁵ As suggested in the *ex parte* by BellSouth, Qwest, SBC Telecommunications, Inc. and Verizon (“Joint LECs”), in the *Third Reconsideration Order* the Commission “...merely intended to *confirm* that customer calls to the LEC to make a carrier change benefiting the LEC or, more specifically, its long distance affiliates, must be verified pursuant to existing Commission verification rules.”¹⁶

¹² See, Motion to Withdraw Petition of the United States Telecom Association, CC Docket No. 94-129, dated May 29, 2003; Letter by Michael B. Fingerhut, Sprint, to Marlene H. Dortch, FCC, CC Docket No. 94-129, dated May 27, 2003.

¹³ 47 CFR §64.1100(a)(*emphasis added*). See *Second Report and Order*, para. 92.

¹⁴ *Second Report and Order*, para. 94.

¹⁵ *In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 Policies and Rules Concerning Unauthorized Changes of Consumers’ Long Distance Carriers*, Third Report and Order and Second Order on Reconsideration, CC Docket No. 94-129, FCC 00-255, para. 72 (2000)[“...if the LEC is the provider of the requested long distance service, the LEC must also properly verify the carrier change request.”]

¹⁶ Joint LECs Letter, p. 2 (*emphasis added*).

II. The Verification Requirements Are Competitively Neutral And Pose No Undue Burden On Small LECs.

Petitioners make several arguments in its petition. First, the Commission provided no justification for requiring verification on inbound calls to LECs. Second, the Commission's rule places an undue burden on small LECs that currently do not verify inbound carrier change requests. Finally, Petitioners claim that such a verification requirement could create a competitive disadvantage for the small LECs' long distance affiliates.¹⁷

The Commission has already balanced the impact and cost of its verification requirements on carriers with the public interest benefits associated with the rules, prior to the *Third Order on Reconsideration*. The Commission has repeatedly found that verification is necessary when a carrier is accepting a carrier change request to its own service, regardless of how the request was received. In particular, the Commission has concluded "...that consumers who call carriers are just as vulnerable to being slammed as consumers who are called by carriers and are entitled to the same protection under section 258."¹⁸ In doing so, the Commission rejected the argument that slamming from in-bound calls was currently not a problem, noting that it could not "...simply wait for problems to appear before attempting to fix them."¹⁹ Additionally, as the Commission discussed in its *Second Report and Order*, "because LECs will be competing with other carriers for consumers' local and long distance services, LECs may not be neutral third parties in implementing carrier changes."²⁰ Therefore, the safeguards must adequately

¹⁷ Petition p. 3.

¹⁸ *Second Report and Order*, para. 65.

¹⁹ *Id.*

²⁰ *Id.*, para. 12.

accommodate the fact that “...there may no longer be a disinterested party executing the changes in subscribers’ telecommunications carriers.”²¹

The requirement does not subject small LECs to an undue burden. In fact, one party to the Commission’s *First Further Notice of Proposed Rulemaking* commented that *declining* to adopt verification rules on in-bound calls would favor large carriers over small carriers since large carriers could launch marketing campaigns encouraging inbound calls.²² Moreover, the Petitioners’ claim that they are disadvantaged by the rule due to their use of Letters of Agency (“LOAs”) rather than the third-party verification method used by other carriers is unpersuasive. The use of LOAs is *the carrier’s* decision, not the Commission’s. The Commission has provided all carriers with the same list of options for obtaining verification. Moreover, the Commission found that its rules “...provide a carrier with sufficient flexibility to choose a verification method that is appropriate for that carrier.”²³

Petitioners’ contention that unaffiliated IXC obtain a competitive advantage over affiliated IXCs when the customer contacts the LEC, because verification is not required of changes to unaffiliated providers, is also unpersuasive. If the customer, instead, contacts the unaffiliated IXC directly to request its long distance service, that IXC would have to take the time and incur the cost of obtaining the required verification. The

²¹ *Id.* See also, *Third Order on Reconsideration*, para. 91; See also, AT&T Petition, p. 3 [“Clearly there are sound public policy reasons for requiring LECs to adhere to the Commission’s verification rules when a consumer contacts a LEC that also offers long distance services through its affiliate. The need to protect consumers is apparent where there is the possibility of self-dealing on the part of the LEC responsible for making a carrier selection change to favor its own affiliated long distance carrier.”]

²² See *Second Report and Order*, para. 63, n. 202, citing, TRA Comments at 10-11.

²³ *Second Report and Order*, para. 67.

Petitioners should not escape these verification obligations simply because they are selling their long distance service through their local exchange affiliate.

Furthermore, the verification requirement does not subject small LECs to a competitive disadvantage, as all carriers are subject to the same requirements. Verification of changes to affiliated long distance carriers is not unique to the Rural LECs. If MCI receives a request from a customer to change to MCI's long distance service, MCI obtains verification of the authorization for that switch whether or not the request was made to the MCI local exchange affiliate or MCI's long distance affiliate. As demonstrated by other parties' comments, most carriers understand the rationale for and claim compliance with these verification obligations, even when they are acting as the customer's local exchange carrier. There is simply no justification for allowing the Rural LECs to be exempt from the rule.

CONCLUSION

For the foregoing reasons, MCI respectfully requests that the Rural ILECs' Petitions for Reconsideration in the above-captioned matter be denied.

Respectfully submitted,

WORLDCOM

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CERTIFICATE OF SERVICE

I, Karen Reidy, do hereby certify that on this 29 day of July, 2003, I have caused a copy of the foregoing Opposition to Petition to be served electronically to the below listed party.

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